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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,077	09/10/2003	Michael P. Ronan	WN3070.P2	2741

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EXAMINER
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MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 02/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/659,077

Applicant(s)

RONAN ET AL.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/17/04</u> . | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the drawings must show every feature of the invention specified in the claims. Therefore, the various coating material must be shown, the adhesive in claim 1, the coating on the panel having the punch scores in claim 3 on the first panel must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. Claims 1-20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-35 of copending Application No.

10058594. Although the conflicting claims are not identical, they are not patentably distinct from each other because the difference is with the limitations of the punch scores and knock outs are modified in either size shape, number or location. It is submitted that modifying in either size shape, number or location requires only ordinary skill in the art. Thus, claims 1-20 are not patentable over claims 1-35 of copending Application No. 10058594.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the recitation “partially coated” is confusing. Coated with what?

In claim 1, the recitation “uncoated knock-outs” is confusing. Uncoated with what?

Claim 4 recites a plurality of knockout defines by the lack of coating material. However, the claim recites an uncoated stripe extending through the knockouts. The result of the uncoated stripe would result in one uncoated knockout area, not a plurality of knockout as previously recited. Furthermore, it seems that the blank does not container adhesive, only on the final container.

4. Claims 1-4, 6-7, 12 and 14-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Cassidy (5029714). Cassidy teaches a first and second panels 34 and 28. The first panel (one of panels 34 and 28) having a plurality of punch scores extending half way. A second panel having a surface at least being partially coated with a coating material (abseal areas 46), and knockouts (absent of abseal) on portions 50 and the white areas above portions 50.

Regarding claim 2, With respect to the stripe, portion 50 and the white areas above portions 50 together resemble a stripe area going through the scores across lines 52.

Regarding claims 6 and 7, one of panels 34 and 28 is an adhesive panel and the other is a right panel. The front panel is 16, the left panel is 24, the back is 14 hingedly attached to the left panel and the adhesive (the other one of panels 34 and 28).

Regarding claim 8, the first closure flap is 30 hingedly attached to front panel 16, and second closure flap 22 is hingedly attached to the back panel 14.

Regarding claim 12, note the teaching in col. 1, ln. 43.

Note that limitation with respect to the modifying in either size shape, number or location does not impart any structure over the structure in Cassidy. The knockouts and punch scores are modified as disclosed.

5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cassidy in view of Mueller (4289240). It would have been obvious to one of ordinary skill in the art to provide a water-based adhesive in Cassidy as taught by Mueller to provide the desired adhesive.

6. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cassidy in view of Katzenmeyer (3563447). Cassidy meets all claimed limitations except for the UV varnish. Jensen teaches that it is known in the art to provide varnish for coating (col. 2, lines 53). It would have been obvious to one of ordinary skill in the m to provide coatings of UV varnish in Cassidy as taught by Katzenmeyer to provide the desired absealing material for the container.

7. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cassidy in view of Van Dyke et al. (3096918). Van Dyke teaches that it is known in the art to provide a container with a sealing system on a container with an adhesive panel 27 and a right panel 16. It

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would have been obvious to one of ordinary skill in the art to use the sealing system of Cassidy in the container of Van Dyke to provide the desired sealing system for the container.

Regarding claim 8, it would have been obvious to one of ordinary skill in the art to move the one of the closure flaps 22 so that one of them is hingedly attached to a back panel 14.

Regarding claim 10, note that there are coatings 13 on both sides of the container as shown in Fig. 3.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Cassidy rejection, as set forth in paragraph 7, and further in view of Katzenmeyer. It would have been obvious to one of ordinary skill in the art to provide a varnish coating in the Cassidy rejection as taught by Katzenmeyer. Furthermore, it would have been obvious to one of ordinary skill in the art to use UV varnish to provide the desired material for coating the container.

9. Claims 1-3, and 14-16, 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buttery (3281054) in view of Buttery (3281059). Buttery '054 teaches a blank with first and second panels with coatings on both sides (col. 5, ln. 5-10; col. 4; ln. 40-75). Note the excluding the areas on the adhesive strip (col. 5, ln. 7) and on the outer portion at the glue areas (col. 4, ln. 71). Thus, the adhesive areas 17 in the second panel would be the knockouts portion, and areas 21 on the front panel knock-outs.

Buttery '04 does not mention the cut score extending only partially through the thickness of the front portions 21. Buttery '059 teaches that it is known in the art to provide cut score extending partially through the thickness (col. 5, ln. 11). It would have been obvious to one of ordinary skill in the art to provide the cut score extending partially through the thickness to open the container more easily.

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Regarding claims 2, and 15, Buttery '059 further teaches the plurality of uncoated knockouts can be substitute by a stripe 17 (col. 4, ln. 46, 63). It would have been obvious to one of ordinary skill in the art to provide a stripe in Butter 054 as taught by Buttery 059 to provide the an alternative sealing strip.

Regarding claim 18, it would have been obvious to one of ordinary skill in the art to provide the punch score  $\frac{1}{2}$  of the thickness to provide the desired depth of the punch score.

10. Claims 1, 3, 14, 16, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Struble (3187976) in view of either Buttery et al. (3281059) or Buttery et al. (3281054). Struble teaches a blank having a joint including a first panel 52 having a plurality of punch scores 60 extending only partially through the thickness (col. 2, ln. 26), a second panel 52 having a plurality of knockouts 58, and a coating (col. 2, ln. 24). Struble meets all claimed limitations except for knockouts are defined by the absent of the coating. Either Buttery '059 or Buttery '054 teaches that it is known in the art to provide a coating for a container except at the isolated adhesive area. It would have been obvious to one of ordinary skill in the art to provide knockouts at the adhesive area in Struble as taught by Buttery to facilitate better bonding.

11. Claims 18, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Struble rejection, in view of Cassidy. It would have been obvious for one of ordinary skill in the art to have the punch score penetrate  $\frac{1}{2}$  of the thickness as taught by Cassidy to provide the desired peel strength and/or sheer strength.

12. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tri M. Mai  
Primary Examiner  
Art Unit 3727

